
1999 Wis Eth Bd 02
LOBBYING

Each independent chapter of a network of organizations that spends more than \$500 in a year to employ a lobbyist must separately register as a lobbying principal if its lobbyist makes lobbying communications on at least five days in a six-month reporting period. If the network (1) has articles or other written agreement of association; (2) has officers, directors, or others who jointly direct the association's activities; and (3) the lobbyist does not take direction from any one chapter or combination of chapters other than the association; then the network rather than the individual chapter should register as a principal.

Facts

- ¶ 1 This opinion is based upon these understandings:
- a. You write on behalf of a network of organizations.
 - b. The network comprises eight chapters, each of which is a separately incorporated corporation of the type described by §501(c)(3) of the Internal Revenue Code.
 - c. You describe the network as a voluntary collaborative effort of the individual chapters; the network is not separately incorporated.
 - d. The chapters want to pay you to lobby on behalf of each chapter.
 - e. You will be paid through grants and, in part, from a contribution from each chapter.
 - f. One of the chapters will serve as fiscal agent.

Questions

- ¶ 2 The Ethics Board understands your question to be:

What is the appropriate way for the chapters to register with the Ethics Board in order to comply with Wisconsin's lobbying law?

Discussion

¶ 3 Wisconsin's lobbying law, Ch. 13, subch. III, *Wisconsin Statutes*, requires every entity that makes expenditures or incurs obligations exceeding \$500 in a calendar year for lobbying to register with the Ethics Board.¹ Under §13.62(12) *Wisconsin Statutes*, "A 'principal' means any person who employs a lobbyist." "Person" includes all partnerships, associations and bodies politic or corporate."²

¶ 4 The network is not a corporation or body politic. Nor are there facts that indicate that it is a partnership. The question is whether the network is an association, and thus a "person," or whether it is simply a collaborative undertaking among several distinct entities, each with its own identity.

¶ 5 Although there appear to be no specific legal requisites in Wisconsin for forming an association, not every group of persons undertaking a cooperative venture thereby becomes an association that can be treated as an

¹ Section 13.64(1), *Wisconsin Statutes*, provides:

13.64 Lobbying registry. (1) Every principal who makes expenditures or incurs obligations in an aggregate amount exceeding \$500 in a calendar year for the purpose of engaging in lobbying which is not exempt under s. 13.621 shall, within 10 days after exceeding \$500, cause to be filed with the board a registration statement specifying the principal's name, business address, the general areas of legislative and administrative action which the principal is attempting to influence, the names of any agencies in which the principal seeks to influence administrative action, and information sufficient to identify the nature and interest of the principal. The statement shall be signed, under the penalty for making false statements under s. 13.69 (6m), by an individual identified under par. (e) who is authorized to represent the principal. The statement shall include:

* * *

(c) If the principal is an industry, trade or professional association, a description of the industry, trade or profession which it represents including a specific description of any segment or portion of the industry, trade or profession which the association exclusively or primarily represents and the name of the chief executive officer and the approximate number of its members.

(d) If the principal is not an individual, business entity or industry, trade or professional association, a statement of the principal's nature and purposes, including a description of any industry, trade, profession or other group with a common interest which the principal primarily represents or from which its membership or financial support is primarily derived and the approximate number of its members.

² Section 990.01(26), *Wisconsin Statutes*.

independent legal entity. *In re Estate of Powell*, 248 Wis. 520 (1945).³ Under the common law, the basic prerequisite for the creation of an unincorporated association is the existence of a group of persons who have joined together for a common purpose.⁴ An association is formed through a contract among the association's members, commonly known as articles of association or a constitution, corresponding to a corporate charter.⁵

¶ 6 In the circumstances you have presented, if the network has articles or other written agreement of association; and has officers, directors, or others who jointly direct the network's activities, then it would appear to be an association that the lobbying law can treat as a principal. Otherwise, it appears to be a collection of independent entities that are simply engaged in a joint undertaking.

Advice

¶ 7 The Ethics Board advises that each chapter that contributes payments for your lobbying effort and which makes expenditures or incurs obligations exceeding \$500 in a calendar year must separately register as a lobbying principal if you make lobbying communications on each of at least five days in a six-month reporting period unless the network (1) has articles or other written agreement of association; and (2) has officers, directors, or others who jointly direct the association's activities; and (3) you do not take direction from any one chapter or combination of chapters other than the association.

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³ The Wisconsin Supreme Court has held that a joint venture is not a legal entity separate from the participants in the venture. *Insurance Company of North America v. Dept. of Industry, Labor and Human Relations*, 173 N.W.2d 192 (1970).

⁴ 7 C.J.S. Associations §2; 6 Am. Jur.2d Associations and Clubs §1.

⁵ 7 C.J.S. Associations §5; 6 Am. Jur.2d Associations and Clubs §5.